



July 29, 2005

Highlights of the Conference Report to Accompany H.R. 3 – “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” – “SAFETEA-LU”

On July 28, the Conference Report to Accompany H.R. 3, H. Rept. 109-203 was filed.

Noteworthy

- The Conference Report provides \$244.1 billion in guaranteed spending and contract authority for highways, public transit, and highway-safety programs from FY 2005 to 2009 (\$286.5 billion if 2004 totals are included). At press time, no Congressional Budget Office score was available.
- The Conference Report maintains the minimum guarantee for the highway account at 90.5 percent for 2005 and 2006, increases the guarantee to 91.5 percent in 2007, with the possibility of increasing to 92 percent under certain circumstances, and then increases to 92 percent for all states in 2008 and 2009.
- The scope of programs included in calculating whether a state is reaching its minimum guarantee (i.e. its rate of return from gas taxes paid) for the highways account of the highway trust fund does include “high priority projects” (Sec. 1101(16)), but does not include “projects of regional and national significance” (Sec. 1101(15)), which are roughly defined as projects with a cost that exceeds \$500 million, or 75 percent of a state’s apportioned funds.
- The Conference Report requires that, in any fiscal year from 2005 to 2009, no state may receive less than 119 percent of its average annual TEA-21 apportionments. The annual percentage ceilings relative to TEA-21 apportionments are applied at a set level for each individual year: FY 2005 – 117 percent; FY 2006 – 118 percent; FY 2007 – 119 percent; FY 2008 – 120 percent; and FY 2009 – 121 percent.

Highlights

SAFETEA-LU HIGHWAY AUTHORIZATIONS BY PROGRAM (in millions)

Section	Name	FY05	FY06	FY07	FY08	FY09
1101(1)	Interstate Maintenance	4883.8	4960.8	5,039.1	5118.6	5199.4
1101(2)	National Highways	5911.2	6005.3	6,110.8	6208.0	6306.6
1101(3)	Highway Bridges	4187.7	4253.5	4320.4	4388.4	4457.5
1101(4)	Surf. Transportation	6860.1	6269.8	6370.5	6472.7	6576.6
1101(5)	Cong. Mitigation	1667.3	1694.1	1721.4	1749.1	1777.3
	Highway construction					
1101(6)	Safety	0	1235.8	1255.7	1275.9	1296.5
1101(7)	Appalachian Devel	470	470	470	470	470
1101(8)	Recreational Trails	60	70	75	80	85
1101(9)(A)	Indian Roads	300	330	370	440	450
1101(9)(B)	Park Roads	180	195	210	225	240
1101(9)(C)	Refuge Roads	29	29	29	29	29
1101(9)(D)	Public Lands	260	280	28	290	300
1101(10)	Multistate Corridor	194.6	389.6	487.0	487.0	389.6
1101(11)	Border Planning	123	145	165	190	210
1101(12)	National Scenic	26.5	30	35	40	43.5
1101(13)	Ferry Boats/Terminals	38	55	60	65	67
1101(14)	Puerto Rico Highways	115	120	135	145	180
1101(15)	Projects of National Significance (25 in all)	129.5	133.1	137.5	142.9	145.6
1101(16)	High-Priority Projects (5173 projects in all)	2966.4	2966.4	2966.4	2966.4	2966.4
1101(17)	Safe Routes to School	54	100	125	150	183
1101(18)	Magnetic Levitation	0	15	15	30	30
1101(19)	National Corridor Planning	140	0	0	0	0
1101(20)	Highways for Life	10	15	20	20	20
1101(21)	Use Tax Evasion Pgrms.	5	44.8	53.3	12	12
Total-Title I						
	<i>Federal-Aid Highway Obligation Limitation</i>	34422.4	36032.3	38244.2	39585.1	41200.0
	<i>Administrative Limit</i>	353	370.5	389.5	408.5	423.7
2001(1)	Highway Safety	163.7	217	220	225	235
2001(2)	Highway Safety R&D	71.4	110	107.8	107.8	107.8
2001(3)	Occupant Protection	19.8	25	25	25	25
2001(4)	Safety Belt Performance	0	124.5	124.5	124.5	124.5
2001(5)	Traffic Safety Information	34.5	34.5	34.5	34.5	34.5
2001(6)	Alcohol Impaired Prgm	31.7	120	125	131	139
2001 (7)	National Driver Registry	3.968	4	4	4	4
2001 (8)	High-Visibility Enforcement	2.9	2.9	2.9	2.9	2.9
2001 (9)	Motorcyclist Safety	6	6	6	6	7
2001 (10)	Child safety	0	6	6	6	6

Title III-Transit	<i>Transit Ob Limit (sec. 3040)</i>	7646.3	8622.9	8974.8	9730.9	10338
	Transit Account of Highway Trust Fund	6690.5	6979.9	7262.8	7871.9	8360.6
	General Fund	955.8	1643	1712	1859	1977.4
Title IV- Motor Carrier Safety	Safety grants from highway trust fund (sec. 4101)	188.5	188	197	202	209
	Administrative expenses from highway trust fund (sec. 4101)	254.8	213	223	228	234
Title V- Research	<i>Research obligation limit (sec. 5102)</i>	410.9	410.9	410.9	410.9	410.9
Title VII- Hazardous Materials Transportation	Authorized appropriations (sec. 7125)	52.7	56.8	57.8	57.8	0
TITLE VIII -- Discretionary Spending Guarantee	<i>Total Highway Obligation Limit (sec. 8003(a))</i>	35164.3	37220.8	39460.7	40824.1	42470.0
	<i>Total Transit Obligation Limit (sec. 8003(b))</i>	7646.3	8622.9	8974.8	9730.9	10338.1

Bill Provisions

TITLE I – FEDERAL-AID HIGHWAYS

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS – This provision authorizes funds out of the Highway Trust Fund (other than the Mass Transit Account) for a number of highway programs. The Conference Report makes clear that, except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of the legislation shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals, as required by current law.

SEC. 1104. EQUITY BONUS PROGRAM – This section strikes and replaces the Minimum Guarantee Program under Section 105 of title 23, United States Code, with the Equity Bonus Program. The scope of programs included in calculating whether a state is reaching its minimum guarantee includes “high priority projects,” but does not include “projects of regional and national significance,” defined as projects with a cost that exceeds \$500 million, or 75 percent of a state's apportioned funds. The minimum guarantee remains at 90.5 percent for 2005 and 2006, increases to 91.5 percent in 2007, with the possibility of raising it to 92 percent for some states under certain circumstances, and then increases to 92 percent for all states in 2008 and 2009.

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY – The Conference Report amends the Revenue Aligned Budget Authority (RABA) established in TEA-21 by making the annual RABA calculations account for two fiscal years at a time, instead of one. The Conference Report also prohibits RABA reductions in any fiscal year in which the Highway Trust Fund (other than the Mass Transit Account) exceeds \$6 billion.

SEC. 1121. HOV FACILITIES – This section authorizes the use of High Occupancy Vehicle (HOV) lanes and provides more exemptions for use of HOV lanes. Specifically, the section authorizes state agencies to allow vehicles not otherwise exempt to use the HOV lanes to do so if the operators of the vehicles pay a toll charged by the agency. These new toll lanes are conditioned on the agency developing, managing, and maintaining a system that will automatically collect the toll, and managing the demand to use the facility by varying the toll amount that is charged. HOV lanes could also be used by certain low-emission vehicles.

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS – This section authorizes \$112 million in grants to states that have met certain requirements with regard to seatbelts in FY05.

SEC. 1407. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS – This section would withhold funds for states that fail to enact 0.08 blood-alcohol-level laws, as in current law.

SEC. 1602. STATE INFRASTRUCTURE BANKS – This section outlines new requirements to allow for the expanded use of State Infrastructure Banks to finance eligible projects. The Conference Report makes clear that prevailing-wage provisions would apply to all SIB-financed construction spending, even the portion financed by non-federal deposits.

SEC. 1604. TOLLING – This section liberalizes the ability of states to use tolls to reduce congestion in a number of situations. It establishes a value pricing pilot program and an express lanes pilot program, while ensuring that the revenue generated by the new tolls cannot be diverted to non-transportation spending.

SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM – This section updates the current high priority projects program to reflect the funding and year-by-year allocations provided in TEA-LU. In total, the Conference Report provides for 5,173 high priority projects at a total estimated cost of \$5.9 billion.

TITLE II – HIGHWAY SAFETY

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS – This section authorizes funds for section 402 highway safety grant program; highway safety research and development under section 403, occupant protection incentive grants under section 405; safety belt performance grants under section 406; state traffic safety information

improvements under section 408; alcohol-impaired driving countermeasures incentive grants under section 410; the national driver register; the high visibility impaired driving and seat belt enforcement program; motorcyclist safety; child safety and child booster seat safety incentive grants; and administrative expenses.

SEC. 2002. HIGHWAY SAFETY PROGRAMS – The Conference Report increases the minimum state apportionments of 402 funds from one-half of 1 percent to three-quarters of 1 percent and the minimum share of the Indian Nations from three-quarters of 1 percent to 2 percent.

SEC. 2003. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAM – This section reauthorizes this program for FY 2006 through 2009 at an average annual funding level of \$107.5 million. These programs focus on the research and development of safety countermeasures related to impaired driving, occupant protection, traffic law enforcement and criminal justice, licensing, motorcycles, pedestrians, bicycles, teen drivers, and emergency medical services.

SEC. 2005. INCENTIVE GRANTS FOR PRIMARY SAFETY BELT USE LAWS – This section creates a new program that would provide a grant to states that enact a new primary seat belt law or achieve a seat belt use rate of 85 percent or more for two consecutive years equal to 475 percent of their FY 2003 Section 402 grant. States that have already enacted a primary seat belt law would receive a grant equal to 200 percent of their FY 2003 Section 402 grant.

SEC. 2006. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS – This is a new discretionary grant program, funded at a \$34.5 million level in each of FY 2006 through 2009 to encourage states to improve their traffic records systems by increasing the efficiency and uniformity of data collection and access through upgrading data collection systems.

SEC. 2007. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES – This section extends the alcohol-impaired driving countermeasures program but changes some of the program elements. States are eligible for grants by either achieving an alcohol-related fatality rate of 0.5 or less, or by carrying out three of the eight program criteria in 2006; four in 2007, and five in 2008 and 2009. Additionally, the 10 states with the highest rate of impaired-driving fatalities will be eligible for a separate grant by implementing a plan approved by the Secretary to reduce impaired driving.

SEC. 2008. NHTSA ACCOUNTABILITY – This section would create a new framework for advancing National Highway Traffic Safety Administration's (NHTSA) management of its grant programs and its program recommendations to the states.

SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM – This section would provide funding for NHTSA to launch national advertising campaigns to increase seat-belt use and reduce drunk driving during holiday periods. It was judged by

Conferees that national advertising campaigns are more cost effective than individual states buying advertising at the local level.

SEC. 2010. MOTORCYCLIST SAFETY – This section establishes a motorcycle-safety incentive-grant program for states that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcycles.

SEC. 2011. CHILD-SAFETY AND BOOSTER SEAT INCENTIVE GRANTS – This section creates a new grant program for states that enforce laws requiring children who are too large for safety seats to be secured by child-booster seats. States may use the grants to carry out child-safety seat and booster seat programs, including the distribution of child restraints to low-income families. However, no more than 50 percent of the funds may be used for purchasing safety restraints.

SEC. 2012. SAFETY DATA – This section requires the Secretary to collect data and compile statistics on accidents involving motor vehicles being backed up, which result in fatalities and injuries. The Secretary is required to transmit a report to Congress not later than January 1, 2009, on these accidents and any recommendations regarding measures to be taken.

SEC. 2013. DRUG-IMPAIRED DRIVING ENFORCEMENT – This section directs the Secretary to conduct a study on drug impaired driving and to develop a model statute for states. The section also requires the Secretary to submit a report to Congress regarding the research and findings not later than 18 months after enactment.

SEC. 2014. FIRST RESPONDER VEHICLE SAFETY PROGRAM – This section directs the Secretary to develop a program and list of best practices to promote compliance with state and local laws to increase the safe and efficient operation of first responder vehicles.

TITLE III – FEDERAL TRANSIT ADMINISTRATION PROGRAMS

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES – This section states that it is in the economic interest of the United States to encourage and promote the development of transportation systems to maximize mobility and minimize transportation-related fuel consumption and air pollution.

SEC. 3010. CLEAN FUELS GRANT PROGRAM – This program authorizes state and local agencies to purchase buses and facilities that use clean fuels.

SEC. 3011. CAPITAL INVESTMENT GRANTS – This section authorizes capital investment grants for new fixed guideway capital projects (“new starts”), fixed guideway modernization (“rail modernization”), and bus and bus-related facilities.

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS –

This section authorizes formula grants to states for public transportation services in non-urbanized areas (i.e., areas of less than 50,000 in population).

SEC. 3019. NEW FREEDOM PROGRAM – This section authorizes a new program requested by the Administration to address the transportation needs of persons with disabilities at all income levels. Under the New Freedom Program, the Secretary will make grants for new transportation services and public transportation alternatives beyond the requirements of the Americans With Disabilities Act to assist individuals with disabilities with transportation needs.

SEC. 3020. BUS TESTING FACILITY – This section authorizes the bus-testing facility in Altoona, Pennsylvania. All new bus models are required to be tested at this location before being purchased by federal transit grantees.

SEC. 3021. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS – This section authorizes a new program to provide funding for public transportation in National Parks and public lands at a level of \$25 million per year. The Departments of Transportation and Interior will work cooperatively to develop and select capital projects.

SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS – This section sets labor standards and protective arrangements for public transportation employees. Specifically, it codifies the principles set forth in the Department of Labor “Las Vegas decision” of September 21, 1994, which provided that if a transit authority, which contracts out its bus services changes contractors, the new contractor is not required to retain existing employees or comply with other provisions of Section 5333(b) of Title 49, United States Code.

SEC. 3034. APPORTIONMENTS OF FORMULA GRANTS – This section establishes a new set-aside program from the urbanized area formula grants program that provides a small-bonus grant payment to urbanized areas under 200,000 in population that operate at a level of service above the industry average level of service.

SEC. 3042. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS – This section makes it a federal crime to interfere with anyone dispatching, operating, or maintaining a mass transportation vehicle or ferry.

SEC. 3049. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS – This section codifies Executive Order 13150 and extends it to include the Legislative and Judicial Branches and independent agencies. As a result, all qualified federal employees in the National Capital Region will receive tax-free transit benefits to cover their commuting costs up to the maximum amount allowed by law. The section also authorizes government vehicles to be used for shuttle service from transit facilities to federal employment centers.

TITLE IV – MOTOR CARRIER SAFETY

SEC. 4104. REVOCATION OF OPERATING AUTHORITY – This section would authorize the Secretary to suspend the registration of a motor carrier, a freight forwarder, or a broker for failing to comply with safety regulations established by the Secretary.

SEC. 4105. STATE LAWS RELATING TO VEHICLE TOWING – This section permits states to create laws requiring towing companies to have prior written consent by the property owner or to require the property owner or lessee be present at the time the vehicle is towed.

SEC. 4117. SAFETY PERFORMANCE HISTORY SCREENING – This provision requires the Secretary to provide companies conducting pre-employment screening services for motor-carrier employers with electronic access to commercial motor vehicle accident reports involving a driver-applicant, which are collected and maintained by Federal Motor Carrier Safety Administration (FMCSA) in its Motor Carrier Management Information System (MCMIS).

SEC. 4120. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS – The section would extend to private motor carriers the existing requirement with respect to for-hire motor carriers to maintain minimum levels of financial responsibility to cover public liability and property damage for the transportation of passengers or goods.

SEC. 4123. COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM MODERNIZATION – This section creates a grant program to be used to modernize the commercial driver’s license information system (CDLIS) to protect Americans better.

SEC. 4135. CDL TASK FORCE – This section would require the Secretary to convene a task force to study and report on the need for improvements to the Commercial Drivers License (CDL) program in order to improve safety.

SEC. 4143. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES – The section would authorize FMCSA officials to order trucks on the road to stop for inspection. Today, state MCSAP officers, but not FMCSA officials, have such authority.

SEC. 4209. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION – This section accepts Section 4203 of the House Bill, which creates civil penalties for household-goods brokers who provide estimates prior to entering into a contract with a household-goods mover.

TITLE V – RESEARCH

SEC. 5402. UNIVERSITY TRANSPORTATION RESEARCH – The Conference Report accepts section 5302 of the House bill. This section provides for grants to be

made to University Transportation Centers (UTCs). Funding is available to 10 Regional University Transportation Centers, 10 Tier I Centers, and 10 Tier II Centers. The purpose of UTCs is to advance the state-of-the-art in transportation research significantly and expand the workforce of transportation professionals through research, education, and technology transfer. Regional UTCs, Tier I Centers, and Tier II Centers will be subject to competitive selection every four years, and all institutions must meet eligibility criteria to qualify for competition. The research and education activities of each Center must support a national strategy for surface transportation research. Each Center must match each dollar of federal grant funds with one dollar of local funds. There will be 22 strategically designated Tier II Centers as well as updated competition dates for Regional and Tier I Centers.

TITLE VI – TRANSPORTATION PLANNING AND PROJECT DELIVERY

SEC. 6005. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM – This section establishes a pilot program for not more than five states to assume the Secretary's responsibility for environmental review for a project. This delegation does not extend to conformity determinations, planning requirements, or rulemaking authority.

TITLE VII – HAZARDOUS MATERIALS TRANSPORTATION

SEC. 7110. SHIPPING PAPERS AND DISCLOSURE – The Conference Report adopts the Senate provision with modifications. The bill requires shippers to keep their shipping papers for two years in order to facilitate investigations of past violations, and continues to require carriers to retain their shipping papers for the current one-year period. For purposes of this section, shippers that are also carriers and carriers that are also shippers must retain their shipping papers for two years.

SEC. 7111. RAIL TANK CARS – The Conference Report adopts a combination of the House and Senate provisions. This section repeals section 5111, which permits a rail car built before January 1, 1971 to be used for hazardous-materials transportation only if the air brake equipment support attachments of the car comply with the standard for attachments contained in 49 CFR 179.100-16 and 179.200-19.

TITLE VIII – TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

SEC. 8001. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES – This section amends section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 to continue separate

spending limits for the highway and mass transit categories in Highway Trust Fund budget authority, new budget authority, and outlays for FY 2005 through 2009. The section also amends section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reference this legislation instead of the Transportation Equity Act for the 21st Century, and to allow for successor accounts to be established in the budget accounts used to track highway and transit spending.

SEC. 8002. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING WITH REVENUES – This section amends section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 to adjust obligations from the Highway Account of the Highway Trust Fund to actual levels of highway receipts for FY 2005 through 2009.

SEC. 8003. LEVEL OF OBLIGATION LIMITATIONS – This section sets the obligation limitation levels for the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 for the highway category and mass transit category, including both Highway Trust Funds and new budget authority, for FY 2005 through 2009.

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
<i>Total Highway Obligation Limit (sec. 8003(a))</i>	35164.3	37220.8	39460.7	40824.1	42470.0
<i>Total Transit Obligation Limit (sec. 8003(b))</i>	7646.3	8622.9	8974.8	9730.9	10338.1

SEC. 8004. ENFORCEMENT OF GUARANTEE – This section amends clause 3 of Rule XXI of the Rules of the House of Representatives to update the cite to this legislation and add language providing that obligation limitation relating to surface-transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 7102 of the House bill shall be assumed to be administered on the basis of sound program-management practices, allowing states to decide high-priority project funding priorities within state allocations.

SEC. 8005. TRANSFER OF FEDERAL TRANSIT ADMINISTRATIVE EXPENSES – This section states that it shall be in order for purposes of clauses 2 and 3 of Rule XXI of the House of Representatives to transfer funds in appropriations bills from Federal Transit Administration administrative expenses to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficity Control Act of 1985.

TITLE IX – RAIL PROVISIONS

SEC. 9001. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT – Section 9001 adopts the language of the House bill, which would reauthorize the Swift Rail Development Act ("Swift Act") and makes some technical amendments: Subsection (a) amends the Swift Act to address “corridor development” rather than “corridor planning.” It also authorizes the acquisition of track, signals, rail rolling stock, and locomotives

under the program. Subsection (b) reauthorizes the Swift Act at \$100 million per year from FY 2006 through 2013. Of this amount, \$70 million is for corridor development activities and \$30 million is for technology development activities.

TITLE X – MISCELLANEOUS PROVISIONS

This title includes a variety of miscellaneous provisions generally relating to transportation, including sections concerning sportfishing and recreational boating safety, specific vehicle safety-related rulings, and other miscellaneous provisions.

TITLE XI – HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

The Conference Report includes a revenue title based on the tax provisions enacted in Senate and House versions of the bill. This title generally provides transportation-related tax provisions relating to excise-tax reform and certain miscellaneous matters. The revenue title also includes provisions that raise approximately \$600 million in revenues over 10 years. A brief description of the revenue provisions appears below, and a complete description is available at: <http://finance.senate.gov/sitepages/leg/FINAL%20Highway%20SOM%20%207-28.pdf>.

SUBTITLE A – TRUST FUND REAUTHORIZATION

The Conference Report extends the expenditure authority for the Highway Trust Fund and Aquatic Resources Trust Fund through September 30, 2009 (September 29 for the Highway Account of the Highway Trust Fund). Motor-fuel excise taxes, and all three non-fuel excise taxes are extended at present law rates through September 30, 2011. The Conference Report does not extend the General Fund retention of 4.8 cents/gallon on motorboat and small engine gasoline. *Cost: none.*

SUBTITLE B – EXCISE TAX REFORM AND SIMPLIFICATION

PART 1 – HIGHWAY EXCISE TAXES

SEC. 1111. MODIFICATION OF GAS-GUZZLER TAX – The Conference Report provides that limousines will be treated under the same rules as other vehicles for purposes of the gas-guzzler tax. *Cost: \$46 million over 10 years. Effective Date: October 1, 2005.*

SEC. 1112. EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS FROM FEDERAL EXCISE TAX ON HEAVY TRUCKS AND TRAILERS – The Conference Report clarifies the definition of a tractor by specifying that only tractors weighing in excess of 19,500 pounds are subject to the federal excise tax. In order to be exempt, the gross combined weight of the tractor, if combined with a towed vehicle, must

not exceed 33,000 pounds. *Cost: \$31 million over 10 years. Effective Date: sales after September 30, 2005.*

SEC. 1113. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE

FUELS – The Conference Report expands the ethanol excise tax credit to include other alternative fuels that displace conventional petroleum products, including natural gas, liquid petroleum gas, P Series fuels, diesel from coal, and liquid hydrocarbons derived from biomass. The Conference Report also increases the tax to the same level as gasoline and diesel, and it provides that alternative fuels will be entitled to a tax credit equal to 50 cents per gallon. *Cost: \$44 million over 10 years. Effective Date: sale, use, or removal after September 30, 2006.*

PART 2 – AQUATIC EXCISE TAXES

SEC. 1115. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT

– The Conference Report reforms the Aquatic Resources Trust Fund by eliminating the current Boat Safety Account and transforming the Sport Fish Restoration Account into the Sport Fish Restoration and Boating Trust Fund. This provision operates in conjunction with language in the Commerce title of the Conference Report to implement reforms supported by the beneficiaries of Aquatic Resources Trust Fund. *Cost: none. Effective Date: October 1, 2005.*

SEC. 1116. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS

– The Conference Report amends the tax code to exempt exports from the current-law 0.125-percent tax on cargo loaded or unloaded at U.S. ports. This provision complies with the Supreme Court’s ruling that the harbor-maintenance tax is unconstitutional as applied to exported cargo. *Cost: none. Effective Date: before, on, and after enactment.*

SEC. 1117. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT

– The Conference Report caps the current 10-percent excise tax on fishing equipment at \$10 for fishing rods. *Cost: \$41 million over 10 years. Effective Date: September 30, 2005.*

PART 3 – AERIAL EXCISE TAXES

SEC. 1121. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS

– The Conference Report repeals the current-law requirement that crop-dusters receive consent from the farm owner to apply for a fuel-tax refund, and it clarifies that travel to and from a farm is exempt use. The Conference Report also expands the current-law exemption for helicopters used in timber operations from the ticket and flight segment taxes to cover fixed-wing aircraft. *Cost: \$40 million over 10 years. Effective Date: September 30, 2005.*

SEC. 1122. MODIFICATION OF RURAL AIRPORT DEFINITION – The Conference Report expands the definition of a rural airport to include airports not connected by paved roads to another airport and having fewer than 100,000 passengers on flights of at least 100 miles per year. *Cost: \$40 million over 10 years. Effective Date: October 1, 2005.*

SEC. 1123. EXEMPTION FROM TAXES ON TRANSPORTATION PROVIDED BY SEAPLANES – The Conference Report exempts from ticket taxes transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur do not receive financial assistance from the Airport and Airways Trust Fund. For purposes of the fuel taxes, transportation by seaplane is treated as noncommercial aviation. *Cost: \$11 million over 10 years. Effective Date: September 30, 2005.*

SEC. 1124. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION – The Conference Report exempts sightseeing flights from the airline ticket tax. *Cost: \$79 million over 10 years. Effective Date: September 30, 2005.*

PART 4 – TAXES RELATING TO ALCOHOL

SEC. 1125. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES – The Conference Report repeals the special occupational taxes relating to alcoholic beverages, which were suspended from July 1, 2005 through June 30, 2008 under the American Job Creation Act of 2004.¹ *Cost: \$459 million over 10 years. Effective Date: July 1, 2008.*

SEC. 1126. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS – The Conference Report creates a new income tax credit for business costs associated with having distilled-spirits products in inventory on which taxes have been paid. The credit is calculated by multiplying the number of cases of bottled spirits by the average tax-financing cost per case. *Cost: \$188 million over 10 years. Effective Date: September 30, 2005.*

SEC. 1127. QUARTERLY EXCISE TAX FILING FOR SMALL ALCOHOL EXCISE TAXPAYERS – The Conference Report allows small distillers, brewers and winemakers to file excise taxes quarterly instead of every other week, subject to certain limitations. *Cost: \$6 million over 10 years. Effective Date: January 1, 2006.*

¹H.R. 4520, 108th Cong., 2d Session; Public Law 108-357 (October 22, 2004).

PART 5 – SPORT EXCISE TAXES

SEC. 1131. CUSTOM GUNSMITHS – The Conference Report establishes an exemption from the current firearms excise tax for manufacturers of fewer than 50 firearms per year. *Cost: \$8 million over 10 years. Effective Date: September 30, 2005.*

SUBTITLE C – MISCELLANEOUS PROVISIONS

SEC. 1141. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION – The Conference Report creates a temporary commission to oversee motor-fuel tax enforcement until September 2009. The commission will undertake a comprehensive review of motor-fuel revenue collections, investigations, regulations and cooperative efforts among agencies and make recommendations regarding the effectiveness of federal enforcement programs and personnel and proposals for regulatory projects, legislation, and funding. *Cost: none. Effective Date: date of enactment.*

SEC. 1142. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION – The Conference Report creates a temporary commission to investigate and study current revenues, alternative funding sources, and transit needs from the present through 2015. *Cost: none. Effective Date: date of enactment.*

SEC. 1143. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES – The Conference Report authorizes \$15 billion of tax-exempt bond authority to finance highway projects and rail-truck transfer facilities. *Cost: \$738 million over 10 years. Effective Date: date of enactment.*

SEC. 1144. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES – The Conference Report directs the Secretary of Treasury to study the use of highway motor fuel in trucks that are not used for the propulsion of the vehicle (e.g., use of fuel in power takeoff vehicles and concrete pumps). The Conference Report calls on the Secretary to propose options for implementing exemptions for classes of vehicles whose non-propulsive fuel use exceeds 50 percent only if the Secretary determines such exemption is administratively feasible. *Cost: none. Effective Date: date of enactment.*

SEC. 1145. DIESEL FUEL TAX EVASION REPORT – The Conference Report requires the Internal Revenue Service (IRS) to submit a report on the availability of new technologies that can be employed to enhance collections of the excise tax on diesel fuel and the IRS' plans to employ such technologies. *Cost: none. Effective Date: date of enactment.*

SEC. 1146. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST – The Conference Report provides that a railroad real estate investment trust that becomes 100-percent owned by a state will not be treated as a taxable C corporation, but will be taxed as if its income from the

performance of essential governmental functions accrued directly to the state. *Cost: \$2 million over 10 years. Effective Date: purchase of voting stock before or on December 31, 2003; purchase of outstanding stock before or on December 31, 2006.*

SUBTITLE D – HIGHWAY-RELATED TECHNICAL CORRECTIONS

The Conference Report makes certain technical corrections to provisions enacted in the American Jobs Creation Act of 2004 relating to fuel. *Cost: none.*

SUBTITLE E – PREVENTING FUEL FRAUD

SEC. 1161. TREATMENT OF KEROSENE FOR USE IN AVIATION – The Conference Report requires that all removals of kerosene, other than into the wing of an airplane, be taxed as diesel (i.e., a tax of 24.4 cents per gallon). All receipts will go to the Highway Trust Fund. If the fuel is eventually used for aviation purposes, a refund will be available to bring the tax down to the appropriate aviation fuel tax rate, and the Highway Trust Fund will pay to the Airport and Airway Trust Fund the appropriate amount of tax paid on fuel used for aviation purposes. *Raises: \$495 million over ten years. Effective Date: September 30, 2005.*

SEC. 1162. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING – The Conference Report requires farmers who buy clear diesel to buy it on a tax-paid basis, although they are permitted to claim a refund for amounts used for farming purposes. Farmers may continue to buy diesel on a tax-free basis if it is dyed. *Raises: less than \$500,000 over ten years. Effective Date: September 30, 2005.*

SEC. 1163. REFUNDS OF EXCISE TAXES ON EXEMPT SALES OF FUEL BY CREDIT CARD – The Conference Report requires credit-card companies that allow tax-exempt fuel purchases on their credit cards to register with the IRS and to be the party responsible for claiming refunds of the tax. *Negligible revenue effect. Effective Date: sales after December 31, 2005.*

SEC. 1164. REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP – The Conference Report requires a taxpayer that has registered with the IRS with respect to federal fuels excise taxes to reregister in the event of a change in ownership. This is intended to increase compliance by terminating the original registration when a change in ownership occurs. *Raises \$45 million over ten years. Effective Date: date of enactment.*

SEC. 1165. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO – The Conference Report requires the Departments of Homeland Security and Treasury to provide for the transmission of information to the IRS pertaining to taxable fuels destined for importation into the United States. *Raises \$41 million over ten years. Effective Date: date of enactment.*

SEC. 1166. TREATMENT OF DEEP-DRAFT VESSELS – The Conference Report overturns the IRS’ regulation that currently exempts large-draft vessels from the registration requirement for tax-exempt bulk transfers of fuel. *Raises \$26 million over ten years. Effective Date: date of enactment.*

SEC. 1167. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS – The Conference Report imposes a \$10,000 penalty for anyone who knowingly sells diesel that does not comply with the Environmental Protection Agency’s sulfur-diesel regulations. *Negligible revenue effect. Effective Date: date of enactment.*

Cost of the Revenue Title

According to the Joint Committee on Taxation, the revenue provisions in the Conference Report have a cost of approximately \$490 million over five years and \$1.1 billion over 10 years, net of the revenues raised by the provisions combating fuel fraud. The revenue estimate prepared by the Joint Committee on Taxation for the revenue title is available at: <http://finance.senate.gov/sitepages/leg/Highwaytbl.pdf>